

REMARKS

The Non-Final Office Action of October 6, 2010 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application is respectfully requested in view of the amendments and remarks presented in this response.

Claims 16-36 are pending in this application. The Office Action objects to claims 31 and 35. The Office Action rejected claims 16-30, 32-34 and 36. In this Amendment and Remarks in response to the Office Action, Applicants have amended claims 16-30, 32-34 and 36. No new matter has been added.

Claim Objections

Claims 31 and 35 are objected to as being dependent upon a rejected base claim, but would be allowance if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Furthermore, the examiner suggest to the applicant to make the following modifications to dependent claims 31 and 35, as agreed on telephone call on Dec 18, 2009 with Attorney Aseet Patel, in order to further clarify the allowable subject matter in case the applicant decides to roll up these claims in the future for allowance of the current application: In line 3 of claims 31 and 35, replace "if" with "by determining whether".

Applicants have amended claims 31 and 35 into independent form including all of the features of their parent claims. Accordingly, the aforementioned objection is moot. Applicants respectfully request withdrawal of the objection and indication of allowance of all pending claims.

Claim Rejections Under 35 USC §112

Claims 16 and 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicants agree with Examiner that their specification teaches distinguishing command data originating from the PVR and command data inputted from a user, and also teaches principles by which to determine when a PVR is controlling a television event. Applicants also agree that their specification teaches ignoring (i.e., not counting, not considering, distinguishing between) power command events. However, Applicants respectfully disagree with the Office Action's argument that their specification does not disclose "not using those command signals determined to be associated with a personal video recorder," as claimed in claim 16 and similarly claimed in claim 33. Applicants' specification expressly addresses the issue of distinguishing between events (e.g., the "WatchTV" event in Table 1) that were caused directly by the viewer and the ones (e.g., in Table 2) that were caused by the PVR. *See* Applicants' specification, p. 9, lines 22-24. In fact, the Office Action (p. 3-4) admits this point. Applicants' specification further explains, in the context of an example, that in that example when the event is determined to have been controlled by a PVR (e.g., TiVo), then the event "is not counted." *See* Applicants' specification, p. 11, lines 21-29. Applicants' specification further explains that these events "should not be considered." *See* Applicants' specification, p. 11, lines 21-29.

Claim Rejections Under 35 USC §103

Claims 16, 17, 19-30, 32, 33, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlack et al. (Patent No. US 7,260,823) in view of Ghasghhai et al. (Pub No US 2003/0037333) further in view of Ali (Pub No. US 2002/0199194). Hereinafter, referenced as Schlack, Ghashgahi and Ali, respectively.

Claims 18 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlack, Ghashgahi and Ali further in view of Williamson et al. (Pub No US 2003/0208767). Hereinafter, referenced as Williamson.

Applicants have amended allowed claims 31 and 35 into independent form by incorporate the features of their parent claims. Applicants submit that these claims are allowable. In addition, amended dependent claims 17-30, 32, 34, and 36 are allowable for at least the same reasons as the claims from which they depend, in addition to the unique combination of features they recite.

CONCLUSION

In view of the above amendments and remarks, reconsideration of all pending claims in the application is respectfully requested. All rejections having been addressed, Applicants respectfully submit that the application is in condition for allowance and respectfully request prompt notification of the same.

The Commissioner is authorized to debit or credit our Deposit Account No. 19-0733 for any fees due in connection with the filing of this response.

If the Examiner should have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

Date: January 6, 2011 By: /Asheet Patel/

Asheet Patel
Registration No. 53,874
BANNER & WITCOFF, LTD.
10 South Wacker Drive
Suite 3000
Chicago, IL 60606
Telephone: 312-463-5000
Facsimile: 312-463-5001